



## MEMORANDUM

October 4, 2005

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TO: CRWCD BOARD OF DIRECTORS

FROM: CHRIS TREESE

RE: Federal Affairs  
4<sup>th</sup> Quarter 2005

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This year I will again prepare a “progressive memo” on federal affairs for the Board’s quarterly meetings. Since federal issues remain active longer than state issues, creating separate quarterly memos for each federal issue would be redundant and inefficient. This progressive memo will look much like Eric’s General Manager’s report (but not as long) with new materials and updates appearing in **bold** in future memos. Since a session of Congress runs for two years, I will likely continue the same memo through 2006 to provide the Board with an easier, read-at-a-glance communication concerning federal affairs.

This memo will grow considerably with each quarterly meeting of the Board. However, if Board members have questions between quarterly updates or desire additional information on federal legislative developments, do not hesitate to contact me.

### **HIGHLIGHTS, 3<sup>rd</sup> QUARTER:**

#### **ESA:**

Ten days ago the House Resources Committee passed Chairman Pombo’s ESA reform legislation, H.R. 3824. The vote was bi-partisan, both on the yes and the no side. A similar vote occurred last Wednesday (9/28) on the House floor where the bill passed 229 to 193 with roughly an equal number of Republicans voting “no” as Democrats voting “yes.” Congressman Salazar voted for the bill; Mark Udall voted against it.

H.R. 3824 offers some dramatic changes but considerably less dramatic than the chairman’s draft bill that was “leaked” back in June. The bill would eliminate critical habitat and replace

it with a requirement for adoption of recovery goals and plans, which may include habitat as an element when necessary to achieve recovery. The long-debated issue of "sound science" is addressed, which it is largely left up to the Secretary of the Interior. The bill includes favorable language on public-private partnerships and direct involvement of state and local governments in recovery planning and implementation. Perhaps the most controversial element is a requirement that landowners be paid for any diminishment of value or use due to the presence of endangered species. This will have a large price tag and appropriations are uncertain even if this provision survives the Senate.

I do not expect the bill will be heard in the Senate this year. Both Chairman Chafee and ranking (minority) member Clinton of the jurisdictional Senate subcommittee have said they prefer to hold further discussions before pursuing legislation. Both, however, have acknowledged the need to address the problems in the existing ESA. Most observers characterized H.R. 3824 and the Democratic alternative that was debated but defeated on the House floor as messages to the Senate.

#### **ENERGY BILL:**

The President signed H.R. 6, the Energy Policy Act of 2005, into law on August 8. This act includes several hydropower provisions that are potentially advantageous to the District. Staff, with the assistance of our D.C. counsel, is still analyzing the Act. However, relevant elements include:

- ◆ **Tax Credits for Renewables.** Hydropower is now included in the definition of renewable resources for certain tax credits. Eligible facilities include hydropower additions to dams that are in place as of the date of the Act. Hydropower must be added by January 2009. Such qualified incremental hydro, however, is only eligible for one-half of the normal \$0.019/KWh tax credit. Unanswered questions include:
  - ▶ Can Wolford's proposed enlargement be considered as pre-existing since certain Board actions initiating enlargement preceded passage of the Act?
  - ▶ Is the CRD capable of both enlarging and adding hydro to Wolford prior to 1/1/09?
  - ▶ Is this tax credit transferable from a public entity to a private individual or entity with tax liabilities?
  - ▶ Can the CRD benefit from this provision by partnering with a private entity for hydro installations and/or operations?
- ◆ **Tax Advantaged Debt Financing.** The Act creates "Clean Renewable Energy Bonds" to ensure benefit tax-exempt entities and to encourage public sector investment in renewables. These bonds must be issued by year-end 2007. However, the Congressional authorization for these bonds must be renewed in two years.

- ◆ **Premium Pricing.** Specific revenue incentives for incremental hydro were also included in the bill. An incentive payment of \$0.018/KWh is authorized for 10 years. As with all Congressional largess, these incentive payments are subject to annual appropriations.

#### **BOREAL TOAD:**

The U.S. Fish & Wildlife Service announced last week that it has dropped the boreal toad as a candidate species for listing under the Endangered Species Act. The agency dropped the toad from further consideration when it decided that the boreal toad is in fact a sub-species of a toad with broad distribution from Alaska to Mexico. The toad has been a candidate species since 1995. Underscoring the need for ESA reform, immediately upon the Service's announcement, the Center for Native Ecosystems announced its intent to sue.

#### **BUDGET:**

For the 7th straight year, Congress failed once again to pass all its Appropriations bills prior to the September 30 end of the federal fiscal year. The government is currently operating under a Continuing Resolution until the end of November. The continuing resolution prevents a shut down of federal activities but does not implement any of the federal activities, new programs or priorities planned for FY '06.

#### Congressional/Administrative Appointments

Senator Allard has been appointed to the Energy and Water, Homeland Security, and Interior and Military Construction subcommittees of the Senate Appropriations Committee. These are critical subcommittees for both water and other Colorado issues.

President Bush nominated Lynn Scarlett to serve as Deputy Secretary for the Department of the Interior. Scarlett had been the Assistant Secretary for Policy, Management, and Budget for Interior.

President Bush appointed Utah Governor Mike Leavitt to head the EPA and the Senate confirmed him. After a short time at EPA, the President asked and Administrator Leavitt accepted the invitation to head the Department of Health and Human Services. Subsequently, President Bush nominated Acting EPA Administrator, Steve Johnson, to head EPA. If confirmed, as expected, Johnson will be the first professional scientist to lead EPA and the first career employee to head the agency. Mr. Johnson was sworn in as the 11th EPA Administrator on May 2, 2005.

On May 10, President Bush nominated Mark Limbaugh as Assistant Secretary of the Interior for Water and Science. Limbaugh was deputy to BuRec Commissioner Keys for the past three years. Prior to moving to Washington, Mark served as the executive director of the Family Farm Alliance and as a water master (similar to our division engineer) in Idaho. **Mark has since been confirmed.**

### Animas-LaPlata Project

March 11, 2005. Reclamation today announced a contract award of approximately \$84.9 million to the Ute Mountain Ute Tribe's Weeminuche Construction Authority for completion of Ridges Basin Dam. This contract will be the single largest and is for the most significant feature of the A-LP project.

## 109<sup>th</sup> CONGRESS

### FY '06 Budget

The President's budget proposal contains both good news and bad news for River District interests.

- ◆ Once again, the President's budget does not include any funds for the Recovery Program. This is an annual occurrence, which requires additional lobbying by RIP partners, but has always been successful.
- ◆ There is \$52 million for Animas-LaPlata Project construction in fulfillment of the Colorado Ute Settlement Act of 2000. A-LP proponents will seek an additional \$13-15 million in appropriations.
- ◆ Again this year, there are no funds for the National Irrigation Water Quality Improvement Program. The River District, however, is assisting the Uncompahgre Valley Water Users Association in seeking a \$750,000 line item insertion for selenium remediation. Senator Allard is assisting our efforts.
- ◆ There is \$19 million for the Middle Rio Grande Project to continue operations, maintenance, and rehabilitation of BuRec facilities, provide flood protection, and protect and recover the Rio Grande silvery minnow and southwestern willow flycatcher.
- ◆ The President's budget includes \$17.9 million for the Lower Colorado River Operations Program to continue river operations, water service contracting and repayment, decree accounting, oversight of hydropower activities, and implementation of the Multi-Species Conservation Program.
- ◆ The Colorado River Salinity Control Program which receives funding from both Interior and the USDA, is recommended to receive nearly \$25 million from Interior and hopes to secure its historical 2.5% share of the \$985 million designated for the Environmental Quality Improvement Program (EQIP) within the USDA's budget.
- ◆ The FY 2006 request for Reclamation totals \$946.7 million in current budget authority, a decrease of \$18.2 million from the FY 2005 enacted amount.
- ◆ The President is proposing \$30 million in Reclamation's budget for Water 2025, more than 50 percent above the amount appropriated in FY 2005.
- ◆ The President's budget requested \$14.1 million for the National Streamflow Information Program and \$63.8 million for the Cooperative Water Program (both stream gauging). The CWCBA is requesting an increase to \$15.5 million and \$70.4 million, respectively, for these two programs.

House Appropriations Committee Chairman Jerry Lewis (R-CA) has circulated subcommittee allocations. The allocations are typically adjusted several times throughout the year. Details on energy and environment spending bills are as follows:

Agriculture: \$16.83 billion, same as FY '05.

Energy and Water: \$29.75 billion, down from \$29.85 billion in FY '05.  
Foreign Operations: \$20.27 billion, up from \$19.54 billion in FY '05.  
Homeland Security: \$30.85 billion, up from \$29.47 billion in FY '05.  
Interior/Environment: \$26.11 billion, down from \$26.70 billion in FY '05.  
Science/State/Justice/Commerce: \$57.45 billion, up from \$56.27 billion in FY '05.  
Transportation/Treasury/HUD: \$66.94 billion, up from \$63.18 billion in FY '05.

The Bureau's 2025 Challenge Grant program will be opened to state agencies in 2006. Appropriations in the FY '06 budget for the 2025 program are roughly doubled from this year.

Both the Energy and Water and Interior and Environment appropriations bills have passed the House and now move to the Senate. The Bureau's FY 06 budget (included in the Energy and Water appropriations bill) funds the agency's core programs with \$60 million more than the President requested, but \$20 million less than the current (FY 05) level of funding. Additionally, House appropriators approved the administration's request to make certain post-9/11 security costs (principally guards) reimbursable as O&M costs.

Senator Allard (R-CO) and Congresswoman Cubin (R-WY) have both agreed to sponsor legislation increasing the construction authorization by \$15 million for the Upper Basin Recovery Program. All members, except Congressman Henley (R-CO) will likely co-sponsor and support this legislation.

**See Highlights 3<sup>rd</sup> Quarter (page 1) for update.**

#### ESA Reform

House Resources chairman Richard Pombo (R-CA) will lead the charge in the House to secure reform in ESA. He has stated that any call for moving a "big reform" bill concerning ESA is a failed strategy. Numerous groups are lining up to advocate for their preferred reforms. I attended a Western Governors' Association meeting in December dedicated to ESA issues. At that meeting, the Governors concluded that overall the ESA needs to be improved but believe the only way to get any improvement is to take smaller, more concise rifle shots. Their priorities for the next year are: requiring recovery plans for each species within a specific time frame, requiring better science in listing and other ESA-related actions, and greater state involvement in recovery implementation. Final decisions/recommendations for the Western Governors will be made at their March meeting in DC.

In the Senate, Senator Crapo (R-ID) has left the Senate Environment & Public Works (EPW) Committee and will no longer be chairing the Fisheries, Wildlife and Water Subcommittee, which has jurisdiction over the Endangered Species Act. Other Republican departures from the EPW Committee include Senators John Cornyn (TX), Craig Thomas (WY) and Wayne Allard (CO). Incoming Republicans include Senators John Thune (SD), Jim DeMint (SC), Johnny Isakson (GA) and David Vitter (LA).

Senator Crapo's replacement for Chair of the Fisheries, Wildlife and Water Subcommittee will not

be known for another couple weeks. Possible replacements include Senators Lisa Murkowski (R-AK) and Lincoln Chafee (R-RI). Including the departures of Senators Harry Reid (D-NV) and Ron Wyden (D-OR), the EPW Committee has lost six Western Senators and only picked up one, Senator John Thune (R-SD). These changes diminish the prospects for even limited ESA reform in the Senate.

As I was typing the January Board memo, a press release was being prepared in D.C. announcing Lincoln Chafee (R-Rhode Island) will be the new chairman of the Fisheries, Wildlife and Water Subcommittee. Senator Chafee is widely considered a moderate and Rhode Island's vast federal lands are not known to have large numbers of endangered species. However, I view Senator Chafee's appointment as positive. I believe those who would otherwise have reached too far and been too aggressive in addressing the critical problems with ESA may be forced to temper and focus their efforts knowing they must first secure Senator Chafee's support.

According to Congressional Daily (1/26/05), Senator Chafee (R-RI), said he will use legislation from the late 1990s (Kempthorne Bill) which passed in the Senate but died in the House to revamp the ESA. The legislation was killed because Democrats on the Senate environment committee and conservatives in the House opposed it. Chafee, therefore, reasons that it "represents a good balance."

Congressman Cardoza (D-CA) recently introduced H.R. 1299, the "Critical Habitat Enhancement Act," to change the time requirements for filing critical habitat designations and recovery plans following a species' listing under ESA. H.R. 1299 allows critical habitat designations to be made in conjunction with, but not more than one year following, the completion of a detailed recovery plan. It also prohibits land that is already part of a federal or state conservation program from being designated as critical habitat. This bill is similar to Congressman Cardoza's bill in the later days of the 108<sup>th</sup> Congress.

As follow up to the Western Governor's summit on ESA in December 2004, several environmental groups have responded to the bi-partisan, consensus recommendations. Defenders of Wildlife, Environmental Defense, and the World Wildlife Fund responded to the WGA commending their efforts and expressing "significant agreement" with the WGA's proposals. These proposals included recommended amendments to the ESA to:

- ◆ Require recovery goals for listed species,
- ◆ Enhance role of state government in species recovery plans and efforts,
- ◆ Ensure use of sound science in ESA decisions, and
- ◆ Provide incentives to private landowners for conservation efforts.

In a May 2005 statement to the Senate Committee on Environment and Public Works, Senator Chafee (R-RI), who chairs this committee, acknowledged shortcomings with the current ESA. The Chairman indicated his interest in revisiting the 1997 Kempthorne-Chafee bill (S. 1180) as a starting point for new legislation. This old bill, named for now-Governor Kempthorne and the Chairman's father, focused on timing of recovery plan publication, setting a priority system for species protection, and enhancing the role of states in species recovery. Chairman Chafee faces reelection

next year in environmentally-conscious Rhode Island.

Congressman Jeff Flake (R-AZ) introduced H.R. 1837 in late April to limit the designation of critical habitat under ESA within normal operating levels of reservoirs. This would address the Lake Roosevelt controversy where the US Fish and Wildlife Service sought to limit the reservoir's ability to refill because, during the recent prolonged draw down, willows and tamarisk had grown and supported Southwest willow flycatcher nesting habitat.

**See Highlights 3<sup>rd</sup> Quarter (page 1) for update.**

#### Headwater States Partnership

Jeff Crane, from the North Fork (of the Gunnison) Improvement Association, has been proposing legislation to form a multi-state, watershed association that would be eligible for federal funds much like the Great Lakes Initiative or Chesapeake Bay Program. Such an association may also assist EPA in tailoring water quality regulations to better address regional conditions (e.g., an arid west versus a wet east). Jeff's concept would allow for a single federal appropriation to the "Headwaters Partnership," which in turn would assist individual watershed efforts throughout the Rocky Mountain states. To date, Jeff's idea has not gained much traction. I think it has intriguing possibilities.

#### Selenium:

The River District is active in attempts to secure federal funding for selenium control, mitigation, and study. As a result of last year's actions by the Colorado Water Quality Control Commission, Colorado now has more than 7600 miles of streams listed as water quality impaired under Section 303(d) of the Clean Water Act. Almost 90% of these streams are listed, in whole or in part, because of elevated selenium concentrations. While not suggesting that the Commission did anything improper, the numbers indicate the need for additional study on the problem and its possible remediation.

We will again advocate for: 1.) restoration of funding to the National Irrigation Water Quality Improvement Program (NIWQIP) which was zeroed out in the President's budget, 2.) another year of funding for the Uncompahgre Valley Water Users' on-the-ground selenium mitigation efforts (\$750,000) and 3.) an appropriation to study Colorado's elevated selenium concentrations, its impacts on Colorado's unique aquatic habitats, and possible selenium mitigation efforts. We will look to both the WRDA bill in 2005 and other Departments' authorizing legislation for opportunities for selenium funding.

**In the wake of Hurricane disaster relief efforts, both short and long term, funding for selenium and other programs is going to be even more challenging. Additionally, the WRDA bill is now unlikely to receive action this year and probably not this Congress.**

#### Tamarisk Control:

Again in the 109<sup>th</sup> Congress, separate bills have been introduced in the House and Senate authorizing assessments and demonstration projects for the control of tamarisk and Russian olive. S.177 by

Senators Domenici (NM) and Allard has already passed Senate Energy and Natural Resources without amendment. H.R. 489, by Congressman Pearce (NM) has been assigned to the House Resources and House Agriculture committees. Both bills authorize funds for an assessment of the extent of invasion and identification of long-term funding alternatives, as well as \$15-18 million for demonstration control projects. The bills authorize \$20 million in FY'06 and \$15 million annually thereafter. The principal difference again this year is that the Senate bill authorizes funds for the Department of the Interior and the House bill for the Department of Agriculture.

The House and Senate have reached a compromise and Congressman Pearce (D-NM) has introduced a new bill, H.R. 2720, to comport with the Senate version. There are still minor differences, but no longer substantive differences about the lead agency. Interior will receive the authorization for funds and serve as lead agency under the compromise bills. Congressmen Udall and Salazar are co-sponsors of the new House bill.

The Corps of Engineers is working with the CDNR on potential funding through the Water Resources Development Act (96) to provide up to \$5 million for river restoration in the Grand Valley, including tamarisk control.

Estimates vary, but a single tamarisk tree can consume up to 7 acre feet of water annually. Tamarisk also increase fire potential and flood frequency, as well as increase salinity.

#### Good Samaritan:

I visited with Congressman Udall's staff in December regarding renewed efforts to pass Good Samaritan legislation, which protects parties willing to remediate of abandoned mine sites. Udall prioritized passage of Good Sam legislation in the 108<sup>th</sup> Congress. He is likely to do so again in the 109<sup>th</sup>. Unclear is whether he will again tie Good Sam provisions to funding sources (e.g., severance taxes) and establishment of an Abandoned Mines Trust Fund. These later provisions have drawn opposition from the mining industry and anti-tax representatives.

In a constructive move, Congressman Mark Udall (D-CO) has introduced two bills this year to address separately the issues of abandoned mine liability and remediation costs. H.R. 1265 creates an "Abandoned Minerals Mine Reclamation Fund" with proceeds from a new, graduated gross proceeds (severance) tax on mineral production. And H.R. 1266, the "Abandoned Hardrock Mines Reclamation Facilitation Act," would facilitate cleanup of inactive and abandoned mine sites by limiting the potential liability of parties undertaking such cleanup.

In a related action, Congressman Kanjorski (D-PA) introduced H.R. 1165 to amend the Internal Revenue Code to allow an income tax credit to holders of bonds issued to finance land and water reclamation of abandoned mine land areas. Mark Udall is a co-sponsor of this bill as well.

**Senator Salazar's office shared a draft of a new approach to the Good Samaritan issue. It did not, however, look like it would provide sufficient incentive for a local watershed group to attempt an abandoned mine clean-up.**

“Twenty-First Century Water Commission”

Congressman Linder (R-GA) will likely again pursue his blue ribbon, nationwide water commission. H.R. 135 passed the House last fall, but failed to make it through the Senate Environment and Public Works Committee (not killed, just not calendared).

Last year’s bill would have created a nine-member commission: 5 appointed by the President, 2 by the House and 2 by the Senate. The commission would have been charged with examining and reporting on ways to study and develop recommendations for a comprehensive water strategy to address the nation’s future needs for freshwater resources. A final report was required in three years.

Energy Bill

The Energy Bill stalled last year in the Senate following relatively brisk passage in the House. While the River District is not interested in the higher profile, more controversial provisions, there are elements of the bill which are important to the River District. Ritchard Dam doesn’t meet the current requirements of an “exempt” hydroelectric facility. A simple updating of the definition of qualifying structures was included in last year’s Senate bill. We will try again.

**See Highlights 3<sup>rd</sup> Quarter (page 1) for update.**

PSOP

The Southeastern WCD tried to run a bill to authorize PSOP and funding for feasibility studies in the lame duck session of Congress in November. It went no where. Congressman McInnis remained opposed to the bill on behalf of his lower Arkansas basin constituents. Congressman Salazar has indicated he, too, will oppose the bill unless the lower Arkansas basin’s concerns are addressed. Both Senators indicated they were uncomfortable with the last minute nature of the lame duck legislation and its resulting appearance of a shady deal. Southeastern and the other proponents of PSOP will pursue legislation early in the 109<sup>th</sup> Congress.

As the Board is aware, the River District reached final agreement on our PSOP-related concerns and now have separate and enforceable agreements that do not rely on the outcome of federal PSOP legislation with Southeastern, Colorado Springs, and the Twin Lakes Reservoir and Canal Company. As part of these agreements, however, the River District is committed to supporting the federal legislation if and when it is introduced.

Miccosukee

The US Supreme Court ruled in the “Miccosukee Case” that a Florida water management district needed a Clean Water Act (CWA) discharge (NPDES) permit to move water from one basin to another. A Petition for Rehearing has been filed. Legislative solutions to this new and expanded interpretation of the CWA will be developed for the new Congressional consideration concurrent with pursuit of judicial remedy.

A preferred administrative remedy to the Miccosukee and related cases is emerging. The initial intent of the administration to deal with the issues will be through an opinion of the EPA General

Counsel. The opinion, which is in the early stages of preparation, will assert that the CWA does not require federal NPDES permits for the simple conveyance of water, and will make clear that sufficient authority exists at the state level to impose such regulatory standards as individual states may choose. Among other issues, the opinion is expected to deal definitively with the 1975 opinion that provides some of the basis for a permit requirement.

**In an Aug. 5 memo to US EPA regional offices, Office of Water chief Benjamin Grumbles and Agency General Counsel Ann Klee confirmed “the agency's longstanding practice and conclude(d) that Congress intended for water transfers to be subject to oversight by water resource management agencies and state non-NPDES authorities rather than the permitting program under section 402 of the CWA.”**

**Noting that the agency intends to initiate a relevant rulemaking, Grumbles and Klee emphasized that, as a "matter of long-standing agency practice, EPA has not issued NPDES permits for mere water transfers nor has it ever stated in any general policy or general guidance that an NPDES permit is required for such transfers."**

**In related Congressional activity, H.R. 1749 and S. 1269 have been introduced to clarify that the EPA has the authority to waive Clean Water Act permit requirements for pesticides that are regulated under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as well as fire retardant and other specified chemical and biological control agents.**

#### By-Pass Flows

Senator Wayne Allard released a letter that he received in January in which the U.S. Department of Agriculture pledges to recognize and uphold the interests of water-rights' holders on or adjacent to National Forest system lands. The letter, signed by Mark Rey, Under Secretary of Agriculture for Natural Resources and the Environment, stated that permits conditioned upon securing water bypass flows were an illegal taking and a violation of state and federal water law. (A copy of this letter was previously e-mailed to Board members.) The letter recognizes for the first time that a bypass flow should not be required of applicants in order to renew permits. It also endorses elements of the 1997 Federal Water Rights Task Force report (“Raley Report”), which found that Congress had not delegated to the U.S. Forest Service any authority to require farmers and cities to bypass part of their existing water supply as a condition for federal land use permit renewal.

#### Ditch Bill Update

The good news is that Colorado Forests are following the recent direction from the US Forest Service to resume processing Ditch Bill applications. Kevin Riordan has been named the Regional Ditch Bill coordinator. Riordan was previously the USFS representative to the Colorado Department of Natural Resources (DNR) and was officed at 1313 Sherman St., so he has a well-established working relationship for Russell George and DNR. Russ and DNR are keeping the pressure on the USFS to show progress in processing Ditch Bill applications. To date, progress is

limited and highly variable by forest. The GMUG Forests, with the greatest number of outstanding Ditch Bill applications, has hired a full-time coordinator. Additionally, the GMUG held a meeting of the "Pathfinder Steering Committee" to advise and assist in the GMUG's notification process and plan for prioritizing and processing pending Ditch Bill applications. The GMUG will begin contacting pending applicants this summer. An additional meeting on the Grand Mesa is planned for this fall to address concerns of water users in that area who have balked at signing the Recovery Program agreement (required). The River District has been asked to assist in explaining what the RIP does for water users and the purpose of the agreement.

#### Reuse and Alternative Water Supply Projects

The House Transportation and Infrastructure Committee passed (5/18/05) H.R. 1359 to extend an EPA grant program that funds alternative water source projects, such as water reuse and reclamation projects for municipal, industrial or agricultural uses. The bill authorizes \$125 million for the program and requires a 50 % match.

#### Irrigation Water under Attack - Again

S. 1118 was introduced by Senator Russ Feingold (D-WI) in an apparently effort to resurrect the 1990s debate concerning the effectiveness of subsidized water to irrigators. S.1118 redefines who is eligible for subsidized water deliveries from Reclamation Projects. S. 1118 rekindles arguments regarding single farm operations. For example, it appears that multiple partnerships comprised of the same partners would constitute a single "farming operation" even if their farms are completely separate and distinct.

S.1118 also imposes a means test that will increase water costs for farmers. S. 1118 provides for reduction in deliveries of less than full cost water for anyone that reports gross farm income from a single "farm operation" in excess of \$500,000 for a taxable year. The intent seems to be to reduce the existing 960-acre limit for non-full cost water for any landholder with gross farm income over \$500,000. Given the very low profit margins in farming, this will likely capture a great many farmers and increase their cost of water. S. 1118 also requires that farmers file tax returns with the Bureau of Reclamation in order to receive project water.

I have written Colorado's two Senators with a copy to Congressmen Salazar and Udall requesting their early and active opposition.

#### Arkansas Valley Pipeline

In late May, Sen. Wayne Allard and Rep. Marilyn Musgrave introduced legislation to expedite the construction of the Arkansas Valley Conduit by authorizing federal money for 80 percent of the construction costs, with the remaining costs to be paid by local communities.

The conduit will begin at the Pueblo Reservoir and run east toward Lamar to deliver water supplies to 16 towns and 25 water agencies in the lower Arkansas Valley. The conduit was first authorized by Congress in 1962 as part of the Fryingpan-Arkansas Project.

#### Colorado River Shortage Criteria

Secretary Norton has begun the notice process to solicit comments and hold public meetings on the development of management strategies for Lake Powell and Lake Mead, including Lower Basin shortage guidelines, under low reservoir conditions. The Secretary has directed Reclamation to develop additional Colorado River management strategies to address operations of Lake Powell and Lake Mead under low reservoir conditions. It is anticipated that, among other potential elements, these strategies could identify those circumstances under which the Department of the Interior (Department) would reduce annual water deliveries, and the manner in which annual operations would be modified.